

MONTANA LEGISLATIVE HISTORY

Chapter 25 1977

Bill H 317 S _____ Original bill & history C

H. Committee on Ag, Livestock, Irrig.

Hearing Date(s) 1-27 _____ C

2-1 _____ C

2-3 _____ C

_____ C

Date Out 2-3 _____ C

S. Committee on Ag, Livestock, Irrig

Hearing Date(s) 2-18 _____ C

_____ C

_____ C

_____ C

2-18

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

1 ^H BILL NO. 317
2 INTRODUCED BY Lien J. Hunter
3 BY REQUEST OF THE DEPARTMENT OF AGRICULTURE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS
6 3-3102 THROUGH 3-3107, R.C.M. 1947, PERTAINING TO MONTANA
7 APICULTURE LAW."
8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10 Section 1. Section 3-3102, R.C.M. 1947, is amended to
11 read as follows:
12 "3-3102. Apiaries--powers and duties of the department
13 of agriculture. (1) To prevent the spread of contagious and
14 infectious disease among bees and apiaries, the department
15 of agriculture may:
16 (1)(a) ~~Order~~ order the transfer of colonies of bees
17 from hives or containers which cannot be properly examined
18 for brood or other diseases to other hives or containers;
19 (2)(b) ~~Order~~ order disinfection of any bee, beehive,
20 brood comb, or any other equipment which is infected or
21 contaminated and burn any infected or contaminated bee,
22 beehive, brood comb, or any other equipment. If, in its
23 judgment, disinfection will not remove the infection or
24 contamination. Before burning any property, the department
25 shall give the owner or person in charge a written notice at

1 least ~~five--(5)~~ days before the date on which the property
2 will be burned. The notice shall be given by registered
3 ~~certified~~ mail or personal service upon the owner or person
4 in charge of the property.
5 (3)(c) ~~Quarantine~~ quarantine any apiary where
6 foulbrood or any contagious or infectious diseases are
7 present and, during the quarantine, prevent the removal from
8 the apiary of any bees or equipment except under a special
9 permit issued by the department permitting the removal under
10 conditions prescribed by it. A person may not sell or offer
11 for sale any apiary, bees, or equipment which are under
12 quarantine unless a permit authorizing the sale or removal
13 is issued by the department. Written notice of quarantine
14 shall be posted by the department, owner, or person in
15 charge at the quarantined apiary at a conspicuous place, and
16 a copy shall be personally served or sent by registered
17 ~~certified~~ mail to the owner of the apiary or person in
18 charge. The quarantine continues in effect until it is
19 ordered removed and a copy of the removal order served in
20 the same manner.
21 (4)(d) ~~Inspect~~ inspect any apiary, hives, equipment,
22 or premises for the presence of disease;
23 (e) ~~promulgate and enforce rules adopted pursuant to~~
24 this chapter.
25 (2) Any person failing to comply with a rule, order,

1 ~~or provisions of a quarantine pursuant to this section is~~
 2 ~~subject to penalties provided for in 3-3110."~~

3 Section 2. Section 3-3103, R.C.M. 1947, is amended to
 4 read as follows:

5 "3-3103. Registration. (1) A person who owns or
 6 possesses an apiary in the state shall, before April 1 each
 7 year, register the apiary.

8 (2) Applications shall be made to the department for
 9 registration application blanks.

10 (3) Registration application blanks shall be furnished
 11 by the department. ~~The blank shall contain: applicant shall~~
 12 ~~provide the following information:~~

13 (a) a statement of the name ~~and~~ place of residence
 14 ~~and place of business of the owner;~~

15 (b) the number of colonies of bees, hives, and
 16 equipment in the apiary;

17 (c) the location of the apiary, setting forth
 18 specifically the location by sectional division to the
 19 nearest quarter section, and the township and range, and, if
 20 within the corporate limits of a town or city, the number of
 21 the lot and block in the town or city;

22 (d) the name of the owner, renter, or occupant of the
 23 land on which the apiary is located;

24 (e) the date when the location apiary was first
 25 established; and

1 (f) other information the department may require under
 2 rules adopted by it for the protection, safety, and welfare
 3 of the public and beekeeping industry.

4 (4) Upon receipt of the application, and payment of
 5 the fees prescribed, the department ~~shall~~ may issue a
 6 certificate of registration for an apiary, setting forth the
 7 name of the owner, the specific location, and the number of
 8 colonies of bees or size of the apiary authorized under the
 9 registration.

10 (5) In issuing certificates of registration for
 11 apiaries, if there is a conflict between applicants with
 12 respect to location, the department shall give preference to
 13 the applicant having the oldest continuous established
 14 location registered apiary.

15 (6) Certificates of registration may not be issued for
 16 new ~~locations~~ of apiaries which are within such close
 17 proximity to established registered apiaries that there is
 18 or may be danger of spread of disease, or that the proximity
 19 will or may interfere with the proper feeding and honey flow
 20 of established apiaries.

21 (7) Before ~~authorizing the establishment of~~
 22 registering new locations, apiaries, the department shall
 23 give at least ~~ten~~ {10} days' notice by registered certified
 24 letter to all registered apiarists likely to be affected by
 25 the proposed new location apiary so that any party affected

1 may file written protests with the department against
2 ~~authorizing registering~~ the new ~~locations~~ apiary. If a
3 written protest is filed, the department may require a
4 hearing. Notice of the time and place of the hearing shall
5 be given all parties interested by registered certified mail
6 at least ~~ten~~-{10} days before the date set for the hearing.

7 (8) Suitable evidence of registration furnished by the
8 department shall be posted by the apiary registrant in a
9 conspicuous place at or near the ~~location of the colony of~~
10 ~~honeybees or beehives~~ apiary. If an owner has more than one
11 ~~location~~ apiary, suitable evidence of registration
12 furnished by the department shall be posted at each ~~location~~
13 apiary.

14 (9) A registration not applied for by April 1 of each
15 year is a late registration and incurs an added penalty of
16 ~~ten~~-{10}% per-cent of the regular registration fee.
17 Registrants who fail to apply for reregistration by April 1
18 of each year shall be notified of their delinquency by the
19 department. The notification shall be by registered
20 certified mail and is sufficient if deposited in a United
21 States post office or mail box and addressed to the
22 registrant at his last address appearing in the ~~bee location~~
23 apiary registration files of the department at least ~~ten~~
24 {10} days before May 1. ~~A location for which application for~~
25 ~~reregistration is not made by May 1 of each year is~~

1 ~~forfeited and all rights under the location terminate. The~~
2 ~~registration of an apiary for which application for~~
3 ~~reregistration is not made by May 1 of each year is~~
4 ~~forfeited and all rights under the registration terminate."~~

5 Section 3. Section 3-3104, R.C.M. 1947, is amended to
6 read as follows:

7 "3-3104. Changing locations--enlarging or selling
8 apiaries. (1) An owner of an established registered apiary
9 may not change ~~locations~~ the location of the apiary without
10 first receiving from the department a ~~permit~~ authorization
11 to establish the new ~~location~~ apiary. In making the
12 application, he shall specify the location of the apiary
13 with the same particularity as in the application ~~or for~~
14 original registration. If the new ~~location~~ apiary is not
15 used within ~~sixty~~-{60} days after a permit new certificate
16 of registration is issued, the permit certificate of
17 registration lapses and all rights under the permit
18 registration terminate. Permits Registrations for new
19 ~~locations~~ apiaries may not be issued for greater areas than
20 the applicant can show are reasonably necessary for his
21 needs consistent with good beekeeping practice.

22 (2) ~~Any right a beekeeper has to a location~~ A
23 registered apiary may be sold or transferred to a purchaser
24 subject to this chapter, if all bees and equipment on the
25 ~~location~~ apiary are sold to the purchaser.

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~~(3) A person enlarging an apiary so as to exceed the number of hives authorized under a certificate of registration is subject to the penalties in 3-3110."~~

Section 4. Section 3-3105, R.C.M. 1947, is amended to read as follows:

"3-3105. Apiaries -- termination of rights -- abandonment. (1) ~~An old~~ The registration of an apiary ~~location~~ which is not stocked with bees during at least part of the normal build-up or honey-producing season is forfeited and all rights under the ~~location~~ certificate of registration terminate. ~~The location is open for new registration at the next regular registration time.~~

(2) An apiary not regularly attended in accordance with good beekeeping practice, which comprises a hazard or threat to disease control in the beekeeping industry, or which by reason of its physical condition or construction cannot be inspected, may be considered an abandoned apiary and may be seized by the department. Any diseased equipment or equipment which by reason of its physical condition or construction cannot be inspected, may be burned, and the remainder may be sold at public auction. Proceeds, after the cost of the sale ~~are is~~ deducted, shall be returned to the former owner or his estate. Before burning or selling, any equipment, the department shall give the owner or person in charge a written notice at least ~~five~~ five days before the

burning or sale. The notice shall be given by registered ~~certified~~ mail or personal service upon the owner or person in charge of the property. If the owner or person in charge cannot be located, a registered ~~certified~~ letter sent to the owner's last address registered with the department is sufficient notice under this section."

Section 5. Section 3-3106, R.C.M. 1947, is amended to read as follows:

"3-3106. Registration fees. (1) Each year before a certificate of registration may be issued for an apiary, the owner or applicant for the certificate shall pay the department a registration fee in accordance with the following schedule of fees for the total number of colonies owned or possessed:

1 to	10 colonies of bees.....	\$ 2.50
11 to	50 colonies.....	5.00
51 to	200 colonies.....	10.00
201 to	300 colonies.....	15.00
301 to	500 colonies.....	20.00
501 to	1,000 colonies.....	30.00
1,001 to	2,000 colonies.....	35.00
2,001 to	3,000 colonies.....	45.00
3,001 to	4,000 colonies.....	55.00
4,001 to	5,000 colonies.....	65.00
5,001 colonies and upward.....		75.00

1 (2) If, after registration, additional or new colonies
2 are ~~added~~ authorized for a registered apiary, fees shall be
3 paid ~~by the registrant~~ in accordance with the schedule in
4 subsection (1) for the total number of colonies for that
5 year."

6 Section 6. Section 3-3107, R.C.M. 1947, is amended to
7 read as follows:

8 "3-3107. Inspection of bees or used beekeeping
9 equipment transported interstate. (1) A person may not
10 transport or bring into the state any used beekeeping
11 equipment or containers, including honey to be extracted,
12 unless it is certified and duly marked as disease-free by an
13 official responsible for apiary regulations of the state
14 from which it is being moved. The department shall be
15 advised in advance of the date of entry and the destination
16 of the material. Used equipment transported into the state
17 ~~shall may~~ be quarantined by the department, in accordance
18 with ~~subsection (3) of section 3-3102 (3)~~, from the time it
19 enters the state until it has been in use while under
20 quarantine for a minimum of ~~ninety (90)~~ days and at least
21 until the following July 1. The department may also
22 inspect and certify as disease-free bees or beekeeping
23 equipment which ~~are is~~ to be transported from Montana to a
24 state which requires an inspection in the state of origin.

25 (2) The costs of making the inspections provided for

1 in subsection (1) shall be paid in advance by the owner of
2 the bees or equipment and shall include a per diem of ~~ten~~
3 ~~dollars--(\$10)~~, necessary traveling expenses, and a fee of
4 ~~five-dollars-(\$5)~~ for the issuance of a certificate of
5 health. If inspection by an official of any other state is
6 considered insufficient for the protection of the Montana
7 bee industry by the department, the department shall so
8 state by public statement. Importation of beekeeping
9 materials, including honey for extracting, from that other
10 state shall be denied unless the materials or honey are
11 first inspected by the department and there is obtained
12 from it a certificate of inspection showing that the
13 materials or honey are apparently free from contagious or
14 infectious disease. The costs of making the inspection shall
15 be paid by the person requesting it, and inspection may be
16 made at any point outside this state convenient to the
17 person making the inspection. The department may require
18 that the costs of making the inspection be paid in advance,
19 and the costs shall include per diem of ~~ten--dollars--(\$10)~~,
20 necessary traveling expenses, and a fee of ~~five-dollars-(\$5)~~
21 for the issuance of the certificate of inspection. The
22 beekeeping materials are also subject to quarantine as
23 provided in this section."

-End-

in possession of the animal at the time of slaughter. It is hard for the department to get money back from a dishonest person if he was in possession of the animal at time of questioning, to pay the rightful owner.

Les Graham, Department of Livestock, was present to testify as a proponent to SB 55. He showed the committee the way an altered brand could be determined by butchering the cow, with the hide of an animal which had an altered brand. He showed how this certain brand had been altered, and how others could be done. He concluded by stating that this method of determining an altered brand was not necessary very often. It had only been used four times in the last ten years, but by passing SB 55 the state would only have to pay the rightful owner of the animal after slaughter.

Representative Johnston asked if a registered animal had to be slaughtered if the owner would only receive the market value for the animal? Senator Galt answered, that this was stipulated, in the bill, that value would be determined before slaughter.

Representative Lien, chief sponsor of HB 317, explained that this bill was a request from the Department of Agriculture, and was a bill cleaning up the language of the apiculture laws.

George Lackman, Department of Agriculture, was present as a proponent to HB 317. He explained to the committee the amount of beekeepers in Montana, kinds and amount of hives they had, and that Montana rated 6th in the nation for production. He continued by stating that the only changes were simple language changes such as changing from, "permit" to "new certificate of registration", and clarifying the rules of the apiaries in Montana.

Other proponents to HB 317, were; Will Kissinger, Montana Department of Agriculture, Boyd Smoot, Smoot Honey Company, Don Smoot, Montana Beekeepers Association, and Bob Davis, Montana Beekeepers Association. These gentlemen stated that they felt HB 317, was a good bill and the language clean up would make the apiculture laws much easier to enforce.

Representative Smith asked, how it was determined if a permit was needed? He has a couple of hives on his own property, and explained that his bees were wild bees, in two locations at his home. They were not actual hives where they were living. Will Kissinger, state inspector, explained that he should have a permit, but under the present law when this occurred the law was not enforced.

Representative Lien, chief sponsor of HB 452, stated that this bill would clarify the authority of a cooperative state grazing district to possess, manage, and control agricultural lands.

Mr. Peter Jackson and Mr. Bob Biggerstaff, Montana Association of Conservation Districts, were present as proponents to HB 452. They stated that this bill would help in the management program for grazing districts to include agricultural lands when necessary, clearing up the law for good management.

have 1% of his money used against his wishes.

Mr. Earl Lee, Ronan area producer, opponent to HB 262, stated a petition of names, from his area, had been submitted to Chairman Day opposing this bill. He had talked to all of these people and they stated they would all request their money back if the bill became law. They were not opposed to advertising, but very opposed to the high percentage that would be taken from their incomes.

Ronan Dairygold Creamery representative, opposed the bill for reasons that as a co-op they have class two and class three milk, as well as class one milk. They would be at a definite disadvantage because they would be taxed the same on class two and three sales as on their class one sales.

Representative Gunderson closed by pointing out that the producer had a period of 40 days after the end of each quarter to submit for their refund. Representative Gunderson turned questions over to Mr. Lybeck, American Dairy Association. Mr. Lybeck stated that, other than Wyoming, other surrounding states did have this type of promotion program and were very happy and successful with it. With this program California has had a 7% increase in class one sales. Representative Severson asked why the American Dairy Association could not handle this on their own? Mr. Lybeck replied, since 1943 the association has been on a volunteer contribution basis and the contributions are not great enough. Representative Ellerd asked how much the national dairy industry spent on advertising? Mr. Peterson, American Dairy Association, answered that in 1976, two million dollars, which was 36.2% of the budget was used for advertising. The question was asked, did the wheat and pork marketing acts have a penalty clause, as this act does? Representative Gunderson replied, yes. Dave Cogley will check into those acts for the committee. Representative Bengtson asked if the assessment was amended out and they ran on a volunteer basis if it would work out? The reply was they didn't feel there would be enough contributions made to run effectively.

The hearing on HB 262 was closed and the committee went into executive session.

Representative Gunderson moved HB 317, do pass. It was seconded by Representative Brand. Discussion was opened by Representative Severson, who had asked to have the bill held back until now. He stated that he was unknowledgeable about bees and wanted to look into it further. He explained that a man from his area had a bee business and had a permit for 15 hives. He added a few without a new permit. He was taken to court but was not prosecuted because the law was too vague to prosecute. If this bill is made law he will then be prosecuted. Representative Gunderson stated that the bee industry was a 10 million dollar industry and they need rules and regulations if they are to operate effectively. Stopping the passage of this bill would only be protecting a handful of people who are avoiding the rules. Representative Brand stated that his father had been a honey producer years ago and he realized the need for these rules and regulations. The bee industry has come a long way and it would be a terrible catastrophe if they had to revert back to the old system.

Minutes

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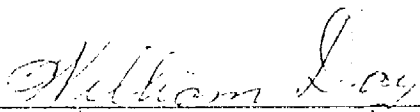
A substitute motion was made by Representative Ellerd to put HB 317 into a subcommittee. It was seconded by Representative Smith. The motion was passed with Representatives Brand, Conroy, Bengtson, Gunderson, Dassinger, and Johnston, opposed. Representative Gunderson withdrew his motion, to do pass HB 317. The subcommittee was appointed and consists of Representatives Gunderson, Severson and Brand.

Representative Curtiss moved SB 35, be amended. It was seconded by Representative McLane. Discussion: Representative Curtiss explained that some of the members of the soil conservation districts felt there should be more provisions to this bill. She presented the attached amendments. The amendments to SB 35 were adopted unanimously.

Representative Smith moved SB 35, be concurred in as amended. It was seconded by Representative Staigmillier. The motion was passed unanimously. Representative Curtiss will carry the bill on second reading.

A motion was made and passed to adjourn.

Adjourned at 6:00 p.m.


William M. Day, Chairman

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Minutes

February 3, 1977

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of the bill if Representative Ellerd would accept it? Representative Ellerd answered, no. He felt it was a poorly drafted bill and removing the penalty would not change his objections to the bill. The question was called.

The substitute motion that HB 262, do not pass, was passed with the vote 8 to 5.

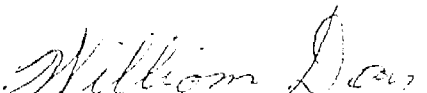
Representative Gunderson reported the subcommittee had a meeting on HB 317 and their recommendations were, do pass. (explanation of HB 317 attached) Dave Cogley proposed some minor amendments to HB 317. (attached)

Representative Gunderson moved HB 317, be amended as proposed. It was seconded by Representative Bengtson. The motion was passed unanimously.

Representative Gunderson moved HB 317, do pass as amended. It was seconded by Representative Johnston. The motion was passed with Representative Severson opposed.

Representative Dassinger moved to adjourn. The motion was passed unanimously.

Adjourned at 5:45 p.m.


William M. Day, Chairman

jm

COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO <u>DATE</u>	DO NOT PASS <u>DATE</u>	DO PASS AS AMEND. <u>DATE</u>	BE CON- CURRED IN <u>DATE</u>	BE CONC. IN AS AMENDED <u>DATE</u>	BE NOT CON- CURRED IN <u>DATE</u>
HB 134	1-25-77	2/2	2/2				2/2		
HB 135	1-25-77	2/2	2/2				2/2		
HB 136	1-25-77	2/2	2/2					2/2	
HB 148	2-23-77	3/16	3/16					3/16	
HB 152	1-27-77	2/7	2/7				2/7 re-referred (let die)		
HB 153	1-27-77	2/7	2/7				2/7 re-referred (let die)		
HB 163	1-28-77	2/11	2/11				2/11		
HB 167	2-2-77	2/7	2/7				2/7		
HB 234	2-17-77	3/4	3/4				3/4		
HB 240	2-4-77	2/14	2/14				2/14 re-referred BCI 2/25		
HB 246	2-15-77	2/21	2/21				2/21		
HB 301	3-5-77	3/14	3/14					3/14	
HB 317	2-14-77	2/18	2/18				2/18		
HB 325	2-14-77	2/18	2/18				2/18		
HB 344	3-3-77	3/9/16	3/16	TABLED					
HB 406	2-10-77	2/18	3/9						3/9

(Use Separate Sheet for Senate, House Bills, and Resolutions)

February 18, 1977

DISPOSITION OF SENATE BILL 259: Senator Boylan moved that this Senate Bill DO NOT PASS. Seconded by Senator Manley. Motion carried on a roll call vote 9 for the motion and no opposition.

DISPOSITION OF SENATE BILL 359: Senator Graham stated that in the previous meeting this bill had recieved a DO NOT PASS but one member of the committee was absent, so he felt there should be a re-vote.

Senator Aber moved that the committee reconsider its actions on the bill. Seconded by Senator Manley. Motion carried. Senator Hager voting No.

Senator Galt moved that Senate Bill 359 DO PASS AS AMENDED. Seconded by Senator Aber. Motion carried. 8 to 2.

DISPOSITION OF SENATE BILL 408: Senator Boylan moved that Senate Bill 408 DO PASS. Seconded by Senator Dover. Motion carried.

CONSIDERATION OF HOUSE BILL 406: Representative Williams was the sponsor of this bill, but since he was attending another committee meeting Fred Barrett from Employment Securities Division spoke on the bill. He stated that this bill has to do with unemployment compensation and that there had been two other bills introduced dealing with the same subject and this bill would just conform the laws. This bill does retain the provision which would allow an employer the method for ending employment. Any one who pays 20,000 in wages or has more than 10 employees in 20 weeks has to pay unemployment compensation. This bill is a result of congressional actions, so each state has been told to amend their unemployment compensation laws to conform with the federal statutes.

It was decided to hold this bill to see what action is taken on Senate Bill 263.

CONSIDERATION OF HOUSE BILL 317: Representative Lien was the sponsor of this bill revising the apiculture law. This law has been in effect since 1950. He said anything over 15 hives are registered as commercial. This bill inserts a penalty to clarify the existing law, so it can be administered easier.

George Lackman, said this is an important industry in the state, and Montana ranks 6th in the nation. He went through the bill outlining the changes that had been made.

Don Foster said the industry has lived and prospered under this bill. He felt it was only a technicality that no one has ever been taken to court in the past 20 years.

DISPOSITION OF HOUSE BILL 317: Senator Dover moved that this bill BE CONCURRED IN. Seconded by Senator Bergren. Motion carried.

STANDING COMMITTEE REPORT

February 18 19 77

MR. PRESIDENT

We, your committee on AGRICULTURE, LIVESTOCK & IRRIGATION

having had under consideration HOUSE Bill No. 317

Respectfully report as follows: That HOUSE Bill No. 317

BE CONCURRED IN
BY PASS

by a court of competent jurisdiction in a proceedings filed therein as provided for in subsection (d) of this section.

(b) Witness fees. Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the division. Such fees shall be deemed a part of the expense of administering this act.

(c) Appeal to courts. Any decision of the board of labor appeals in the absence of an appeal therefrom as herein provided shall become final 30 days after the date of notification or mailing thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies before the board of labor appeals as provided by this act. The division or board of labor appeals shall be deemed to be a party to any judicial action involving any such decision, and may be represented in any such judicial action by any qualified attorney employed by the division or board of labor appeals and has been designated by it for that purpose, or at the division's or board of labor appeals' request, by the attorney general.

(d) Court review. Within 30 days after the date of notification or mailing of the decision of the board of labor appeals, any party aggrieved thereby may secure judicial review thereof by commencing an action in the district court of the county in which said party resides against the board of labor appeals for the review of its decision, in which action any other party to the proceeding before the board of labor appeals shall be made a defendant. In such action, a petition which need not be verified, but which shall state the grounds upon which a review is sought, shall be served upon a member of the board of labor appeals or its designate for service of process and such service shall be deemed completed service on all parties, but there shall be left with the party so served as many copies of the petition as there are defendants and the board of labor appeals shall forthwith mail one such copy to each such defendant. With its answer, the board of labor appeals shall certify and file with said court all documents and papers and a transcript of all testimony taken in the matter, together with its findings of fact and decision therein. The board of labor appeals may also in its discretion, certify to such court questions of law involved in any decision by it. In any judicial proceeding under this section, the findings of the board of labor appeals as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of said court shall be confined to questions of law. Such action, and the questions so certified, shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under the workmen's compensation law of this state. An appeal may be taken from the decision of the said district court to the supreme court of Montana in the same manner, but not inconsistent with the provisions of this act, as is provided in civil cases. It shall not be necessary, in any judicial proceeding under this section, to enter exceptions to the rulings of the division or board of labor appeals and no bond shall be required for entering such appeal. Upon the final determination of such judicial proceeding, the division shall enter an order in accordance with such determination. A petition for judicial review shall not act as a supersedeas or stay unless the division or board of labor appeals shall so order."

Approved March 8, 1977.

CHAPTER NO. 25

AN ACT AMENDING SECTIONS 3-3102 THROUGH 3-3107, R.C.M. 1947, PERTAINING TO MONTANA APICULTURE LAW.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-3102, R.C.M. 1947, is amended to read as follows:

"3-3102. Apiaries — powers and duties of the department of agriculture. (1) To prevent the spread of contagious and infectious disease among bees and apiaries, the department of agriculture may:

(a) order the transfer of colonies of bees from hives or containers which cannot be properly examined for brood or other diseases to other hives or containers;

(b) order disinfection of any bee, beehive, brood comb, or any other equipment which is infected or contaminated and burn any infected or contaminated bee, beehive, brood comb, or any other equipment if, in its judgment, disinfection will not remove the infection or contamination. Before burning any property, the department shall give the owner or person in charge a written notice at least 5 days before the date on which the property will be burned. The notice shall be given by *certified* mail or personal service upon the owner or person in charge of the property.

(c) *quarantine* any apiary where foulbrood or any contagious or infectious diseases are present and, during the quarantine, prevent the removal from the apiary of any bees or equipment except under a special permit issued by the department permitting the removal under conditions prescribed by it. A person may not sell or offer for sale any apiary, bees, or equipment which are under quarantine unless a permit authorizing the sale or removal is issued by the department. Written notice of quarantine shall be posted by the department, owner, or person in charge at the quarantined apiary at a conspicuous place, and a copy shall be personally served or sent by *certified* mail to the owner of the apiary or person in charge. The quarantine continues in effect until it is ordered removed and a copy of the removal order served in the same manner.

(d) *inspect* any apiary, hives, equipment, or premises for the presence of disease;

(e) *promulgate and enforce rules adopted pursuant to this chapter.*

(2) Any person failing to comply with a rule, order, or provision of a quarantine pursuant to this section is subject to penalties provided for in 3-3110."

Section 2. Section 3-3103, R.C.M. 1947, is amended to read as follows:

"3-3103. Registration. (1) A person who owns or possesses an apiary in the state shall, before April 1 each year, register the apiary.

(2) Applications shall be made to the department for registration application blanks.

(3) Registration *application* blanks shall be furnished by the department. The *applicant* shall provide the following information:

- (a) a statement of the name and place of residence;
- (b) the number of colonies of bees, hives, and equipment in the apiary;
- (c) the location of the apiary, setting forth specifically the location by sectional division to the nearest quarter section, and the township and range and, if within the corporate limits of a town or city, the number of the lot and block in the town or city;
- (d) the name of the owner, renter, or occupant of the land on which the apiary is located;
- (e) the date when the *apiary* was first established; and
- (f) other information the department may require under rules adopted by it for the protection, safety, and welfare of the public and beekeeping industry.

(4) Upon receipt of the application and payment of the fees prescribed, the department may issue a certificate of registration for an apiary, setting forth the name of the owner, the specific location, and the number of colonies of bees or size of the apiary authorized under the registration.

(5) In issuing certificates of registration for apiaries, if there is a conflict between applicants with respect to location, the department shall give preference to the applicant having the oldest continuous *registered* apiary.

(6) Certificates of registration may not be issued for new apiaries which are within such close proximity to established registered apiaries that there is or may be danger of spread of disease or that the proximity will or may interfere with the proper feeding and honey flow of established apiaries.

(7) Before *registering* new *apiaries*, the department shall give at least 10 days' notice by *certified mail* to all registered apiarists likely to be affected by the proposed new *apiary* so that any party affected may file written protests with the department against *registering* the new *apiary*. If a written protest is filed, the department may require a hearing. Notice of the time and place of the hearing shall be given all parties interested by *certified mail* at least 10 days before the date set for the hearing.

(8) Suitable evidence of registration furnished by the department shall be posted by the *apiary registrant* in a conspicuous place at or near the *apiary*. If an owner has more than one *apiary*, suitable evidence of registration furnished by the department shall be posted at each *apiary*.

(9) A registration not applied for by April 1 of each year is a late registration and incurs an added penalty of 10% of the regular registration fee. Registrants who fail to apply for reregistration by April 1 of each year shall be notified of their delinquency by the department. The notification shall be by *certified mail* and is sufficient if deposited in a United States post office or mail box and addressed to the registrant at his last

address appearing in the *apiary* registration files of the department at least 10 days before May 1. *The registration of an apiary for which application for reregistration is not made by May 1 of each year is forfeited and all rights under the registration terminate.*"

Section 3. Section 3-3104, R.C.M. 1947, is amended to read as follows:

"3-3104. Changing locations — enlarging or selling apiaries. (1) An owner of an established registered apiary may not change the *location of the apiary* without first receiving from the department *authorization* to establish the new *apiary*. In making the application, he shall specify the location of the *apiary* with the same particularity as in the application for original registration. If the new *apiary* is not used within 60 days after a *new certificate of registration* is issued, the *certificate of registration* lapses and all rights under the *registration* terminate. *Registrations* for new *apiaries* may not be issued for greater areas than the applicant can show are reasonably necessary for his needs consistent with good beekeeping practice.

(2) A *registered apiary* may be sold or transferred to a purchaser subject to this chapter, if all bees and equipment on the *apiary* are sold to the purchaser.

(3) A *person enlarging an apiary so as to exceed the number of hives authorized under a certificate of registration* is subject to the penalties in 3-3110."

Section 4. Section 3-3105, R.C.M. 1947, is amended to read as follows:

"3-3105. Apiaries — termination of rights — abandonment. (1) *The registration of an apiary* which is not stocked with bees during at least part of the normal build-up or honey-producing season is forfeited and all rights under the *certificate of registration* terminate.

(2) An apiary not regularly attended in accordance with good beekeeping practice, which comprises a hazard or threat to disease control in the beekeeping industry or which by reason of its physical condition or construction cannot be inspected, may be considered an abandoned apiary and may be seized by the department. Any diseased equipment or equipment which by reason of its physical condition or construction cannot be inspected may be burned, and the remainder may be sold at public auction. Proceeds, after the cost of the sale is deducted, shall be returned to the former owner or his estate. Before burning or selling any equipment, the department shall give the owner or person in charge a written notice at least 5 days before the burning or sale. The notice shall be given by *certified mail* or personal service upon the owner or person in charge of the property. If the owner or person in charge cannot be located, a *certified* letter sent to the owner's last address registered with the department is sufficient notice under this section."

Section 5. Section 3-3106, R.C.M. 1947, is amended to read as follows:

"3-3106. Registration fees. (1) Each year before a certificate of registration may be issued for an apiary, the owner or applicant for the certificate shall pay the department a registration fee in accordance with the following schedule of fees for the total number of colonies owned or possessed:

1 to	10 colonies of bees	\$ 2.50
11 to	50 colonies	5.00
51 to	200 colonies	10.00
201 to	300 colonies	15.00
301 to	500 colonies	20.00
501 to	1,000 colonies	30.00
1,001 to	2,000 colonies	35.00
2,001 to	3,000 colonies	45.00
3,001 to	4,000 colonies	55.00
4,001 to	5,000 colonies	65.00
5,001 colonies and upward		75.00

(2) If, after registration, additional or new colonies are *authorized for a registered apiary*, fees shall be paid by the registrant in accordance with the schedule in subsection (1) for the total number of colonies for that year."

Section 6. Section 3-3107, R.C.M. 1947, is amended to read as follows:

"3-3107. Inspection of bees or used beekeeping equipment transported interstate. (1) A person may not transport or bring into the state any used beekeeping equipment or containers, including honey to be extracted, unless it is certified and duly marked as disease-free by an official responsible for apiary regulations of the state from which it is being moved. The department shall be advised in advance of the date of entry and the destination of the material. Used equipment transported into the state may be quarantined by the department, in accordance with 3-3102(3), from the time it enters the state until it has been in use while under quarantine for a minimum of 90 days and at least until the following July 1. The department may also inspect and certify as disease-free bees or beekeeping equipment which is to be transported from Montana to a state which requires an inspection in the state of origin.

(2) The costs of making the inspections provided for in subsection (1) shall be paid in advance by the owner of the bees or equipment and shall include a per diem of \$10, necessary traveling expenses, and a fee of \$5 for the issuance of a certificate of health. If inspection by an official of any other state is considered insufficient for the protection of the Montana bee industry by the department, the department shall so state by public statement. Importation of beekeeping materials, including honey for extracting, from that other state shall be denied unless the materials or honey are first inspected by the department and there is obtained from it a certificate of inspection showing that the materials or honey are apparently free from contagious or infectious disease. The costs of making the inspection shall be paid by the person requesting it, and inspection may be made at any point outside this state convenient to the person making the inspection. The department may require that the costs of making the inspection be paid in advance, and the costs shall include per diem of \$10, necessary traveling expenses, and a fee of \$5 for the issuance of the certificate of inspection. The beekeeping materials are also subject to quarantine as provided in this section."

Approved March 8, 1977.

CHAPTER NO. 26

AN ACT TO AMEND SECTION 89-8-105, R.C.M. 1947, TO PROVIDE FOR AN EXTENSION OF THE SUSPENSION OF ACTION ON CERTAIN APPLICATIONS FOR PERMITS TO APPROPRIATE SURFACE WATER OR FOR CHANGES IN PURPOSE OF USE IN THE YELLOWSTONE RIVER BASIN AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 89-8-105, R.C.M. 1947, is amended to read as follows:

"89-8-105. Suspension of action. (1) The department may not grant or otherwise take any action on an application until one of the following first occurs:

(a) *the board of natural resources and conservation makes a final determination on the applications for reservations of water in the basin filed before January 1, 1977, in accordance with 89-890;*

(b) *a final determination of existing rights has been made in the source of supply in accordance with the Montana Water Use Act; or*

(c) *January 1, 1978; however, if a court stays or enjoins the continuance of proceedings on any pending application for reservation of water in the basin filed before January 1, 1977, and such stay or injunction prevents the board from making a final determination on such application before January 1, 1978, the court shall extend this date by the length of delay incurred. The court may not extend this date beyond January 15, 1979.*

(2) A reservation established before such application for permit is granted is a preferred use over the right to appropriate water pursuant to the permit, and the permit, if granted, shall be issued subject to that preferred use."

Section 2. **Effective date.** This act is effective on its passage and approval.

Approved March 9, 1977.

CHAPTER NO. 27

AN ACT TO AMEND SECTION 64-306.1, R.C.M. 1947, TO DELETE AN ERRONEOUS REFERENCE TO FEDERAL CIVIL RIGHTS LAWS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 64-306.1, R.C.M. 1947, is amended to read as follows: